REMARKS

Claims 1-5, 7-9 and 12-19 are pending in the above-identified application. It is respectfully submitted that this Response is fully responsive to the Office Action dated November 14, 2005.

The specification was objected to because the title of the invention is not descriptive. To expedite prosecution, Applicants amend the title to recite -- A RELAY APPARATUS CONNECTED TO A HOST COMPUTER THROUGH A NETWORK --. Accordingly, Applicants respectfully request that the Examiner withdraw the objection to the specification.

Claim 1 was rejected under 35 U.S.C. §103(a) as being unpatentable over Applicant's admitted prior art ["AAPA"], in view of *Mikkonen,* (U.S. Pat. No. 6,885,633). In rejecting this claim, the Examiner acknowledged that the AAPA does not disclose that the basic units are in one relay apparatus or that they share the same network address. However, the Examiner concluded that it would have been obvious to modify AAPA's basic units with *Mikkonen's* teachings, such that the basic units are housed in a single relay apparatus and are able to share a common address.

The Examiner has failed to present a *prima facie* case of obviousness, because even if one were to combine these references, the resultant combination would not be the claimed invention. For example, one objective of the present invention is to provide a relay apparatus which can select duplexed relay functions and select duplexed host computers (present system and standby system) in accordance with the input operations. In order to accomplish this objective, claim 1

recites a relay apparatus comprising *a common unit which makes one of said first basic unit and said second basic unit operative as a present system, monitors its status, and when an abnormality is detected during said monitoring operation, stops the basic unit of the present system and switches it to an operation of the basic unit of a standby system.* However, *Mikkonen* does not teach or suggest incorporating either a common unit or duplexed host computers. Furthermore, the *Mikkonen* device does not "stop the basic unit of the present system and switch it to an operation of the basic unit of a standby system." Accordingly, the Examiner's assertion that providing a separate controller would have been obvious appears to be based upon hindsight.

Another objective of the present invention is to provide a relay apparatus having a duplex structure of a high line use efficiency in which it is sufficient to use one network address [p. 5]. Accordingly, claim 1 recites a first basic unit "into which a peculiar network address is set" and a second basic unit "into which the same network address as that of said first basic unit is set". However, *Mikkonen* discloses nodes 100a, 100b with different IP addresses IPA, IPB, IPC, IPD associated with each interface of the nodes [e.g., Fig. 1; column 3, lines 30-44]. Thus, *Mikkonen* teaches away from the claimed invention.

Therefore, even if one were to combine the cited references, the resultant combination will suffer the same problem disclosed in the specification of the present application, namely increased line costs. [P. 4 "The system using such conventional relay apparatuses with the duplex structure as mentioned above has the following problems. First, since the duplex structure is formed by individually connecting the relay apparatuses 204-1 and 204-2 to the host computers

200-1 and 200-2 of the present system and standby system, it is necessary to assure peculiar network addresses, for example, IP addresses (10.1.1) and (10.1.2) for the relay apparatuses 2041 and 204-2, respectively, so that line costs increase."]

Thus, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness based on the proposed combination of the AAPA and *Mikkonen*. As claims 2-5, and 7-9 depend from claim 1, these claims should likewise be allowable in view of the above comments by nature of their dependency.

Claim 1 was also rejected under 35 U.S.C. §103(a) as being unpatentable over *Mikkonen*, in view of *Wang et al.*, (U.S. Pat. No. 6,587,970 ("*Wang*"). In rejecting this claim, the Examiner acknowledged that *Mikkonen* does not disclose a common unit. However, the Examiner asserted that it would have been obvious to separate the monitoring functionality present within *Mikkonen's* units into a separate device that performs the same functions as described by *Mikkonen* since it has been held that separating functionality into distinct devices that has been previously accomplished in a single device involves only routine skill in the art. *Nerwin v. Erlichman* 168 USPQ 177 (1969). The Examiner then concluded that it would have been obvious to implement the monitoring functionality from *Mikkonen's* network nodes into a separate unit as taught by *Wang* for the well known advantages provided by a shared unit: centralizing router selection, automatic failover detection and alleviating the responsibility from *Mikkonen's* network nodes.

However, *Wang et al* discloses a controller unit that detects a change in the operational status of the primary host computer 110 and, in response to this change in operational status, automatically alters the operational status of the secondary host computer 120 [column 7, lines 3-7]. *Mikkonen* provides a system for providing fault tolerance to computer data networks (See Abstract; fault tolerance is achieved by redundancy...by using at least two network nodes in parallel.) *Mikkonen* is not at all concerned with detecting a change in the operational status of a first host computer and one skilled in the art would not look to the teachings of *Wang et al* to modify the device of *Mikkonen* as proposed by the Examiner. However, for at least the reasons discussed above, even if one were to look to the teachings of *Wang*, the resultant combination would not be the claimed invention. Accordingly, Applicants respectfully submit that the rejection of claim 1 be withdrawn.

The rejections of claims 2-5, 7-9, and 12-14, which depend from claim 1, should likewise be withdrawn in view of the above remarks by nature of dependency.

Claims 15-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over AAPA, in view of *Mikkonen*. In rejecting claims 15 and 17, the Examiner acknowledged that the AAPA failed to disclose that the units have a common network device. However, the Examiner concluded that it would have been obvious to modify AAPA's basic units with *Mikkonen's* teachings such that they are able to share a common address. Applicants respectfully disagree with the Examiner's position for at least the following reasons.

The Examiner has failed to present a *prima facie* case of obviousness, because even if one were to combine these references, the resultant combination would not be the claimed invention. As discussed above regarding claim 1, one objective of the present invention is to provide a relay apparatus which can select duplexed relay functions and select duplexed host computers (present system and standby system) in accordance with the input operations. To accomplish this objective, claims 15 and 17 each recite a relay apparatus comprising *a common unit that monitors a status of the first basic unit, and switches the first basic unit to the second basic unit when an abnormality is detected in the first basic unit, the common unit that manages the common network address*. However, as discussed above, *Mikkonen* does not teach or suggest incorporating either a common unit or duplexed host computers. Furthermore, the *Mikkonen* device does not switch *the first basic unit to the second basic unit when an abnormality is detected in the first basic unit*. Accordingly, the Examiner's assertion that providing a separate controller would have been obvious appears to be based upon hindsight.

Another objective of the present invention is to provide a relay apparatus having a duplex structure of a high line use efficiency in which it is sufficient to use one network address [p. 5]. Accordingly, claims 15 and 17 each recite a first basic unit and a second basic unit having a common network address. Whereas, *Mikkonen* discloses nodes 100a, 100b with different IP addresses IPA, IPB, IPC, IPD associated with each interface of the nodes [e.g., Fig. 1; column 3, lines 30-44]. Thus, *Mikkonen* teaches away from the claimed invention.

In view of the above remarks, Applicants submit that even if one were to combine the cited references, the resultant combination will suffer the same problem disclosed in the specification of the present application, namely increased line costs. [*e.g.*, p. 4]. Thus, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness based on the proposed combination of the AAPA and *Mikkonen*. Accordingly, Applicants respectfully request that the Examiner allow claims 15-19.

For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

Should the Examiner deem that any further action by applicants would be desirable to place the application in condition for allowance, the Examiner is encouraged to telephone applicants' undersigned attorney.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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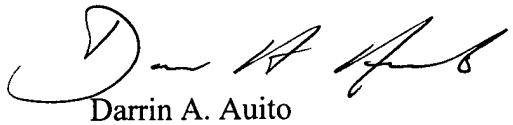

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